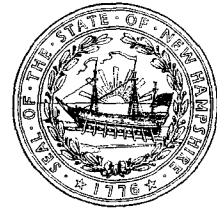




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

June 1, 2005

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RETURN RECEIPT REQUESTED

LETTER OF DEFICIENCY
No. WMD 05-13

Nim-Cor, Inc.
575 Amherst Street
Nashua, New Hampshire 03063

Attn: Mr. Alastair Millns, President

Re: Nim-Cor, Inc.
Nashua, New Hampshire
EPA ID # NHD001082304

Dear Mr. Millns:

On November 17, 2004 and December 6, 2004, the Department of Environmental Services, Waste Management Division ("DES") conducted an inspection of Nim-Cor, Inc. ("Nim-Cor"). The purpose of the inspection was to determine Nim-Cor's compliance status relative to RSA Ch. 147-A and the New Hampshire Hazardous Waste Rules, Env-Wm 100-1100.

As a result of the inspection, the following deficiencies in your hazardous waste management program were documented:

1. Env-Wm 502.01 - Hazardous Waste Determinations

At the time of the inspection, no formal hazardous waste determination had been conducted on the "Waste Disposable MEK Rags" generated in the Carbon Fiber Shaft Area; the "Waste Sandblasting Media" generated in the Maintenance/Welding Area; the "VM & P Naptha" stored in the Outdoor Shed; and the "Waste Metal Chips" generated in the Metal Fabrication Area.

Env-Wm 502.01 requires that all generators of waste determine if their waste is a hazardous waste. Waste determined to be hazardous must be handled pursuant to the requirements of the Hazardous Waste Rules.

DES requests that Nim-Cor conduct hazardous waste determinations for the following:

- A. "Waste Disposable MEK Rags" generated in the Carbon Fiber Shaft Area: DES requests that Nim-Cor determine whether the waste rags are a hazardous waste by either applying knowledge of the hazardous properties of the waste rags or by testing a representative sample of the waste rags. The analyses should include, at a minimum, the Toxicity Characteristic Leaching Procedure (TCLP) for organics using the method described in Env-Wm 403.06.

Please be advised that materials that are mixed with a listed hazardous waste are also regulated as hazardous wastes, as specified in Env-Wm 404.01(a)(1). Therefore, if a rag is used in conjunction with an F-listed solvent (e.g., methyl ethyl ketone), the waste rag is a hazardous waste.

Nim-Cor will need to provide to DES the results of the hazardous waste determination, along with any other supporting data, such as Material Safety Data Sheets (MSDS) and/or chemical analyses.

Alternatively, Nim-Cor may be able to manage the waste rags as "contaminated cloth wipers for laundering." DES defines "contaminated wipers" as rags, shop towels, and wipers which have been used, contaminated with minor amounts of hazardous waste constituents such as solvents or oils, and are intended to be laundered before reuse. Please reference the enclosed DES Environmental Fact Sheet # WMD-HW-6, "Contaminated Cloth Wipers for Laundering," to determine if this DES policy is applicable to your situation.

- B. "Waste Sandblasting Media" generated in the Maintenance/Welding Area: The waste sandblasting media is currently disposed of as a solid waste. Because it is possible that while in use the sandblasting media may be contaminated by metals, the final waste will need to be sampled and tested. Laboratory analysis should include, at a minimum, testing to detect the characteristic of toxicity (TCLP metals) using the method described in Env-Wm 403.06.
- C. "VM & P Naptha" stored in the Outdoor Shed: At the time of the inspection, there were three (3) five-gallon containers of VM & P Naptha, marked as "flammable", and it was stated by Nim-Cor personnel that this material is no longer used at the facility and has been stored for approximately seven years.
- D. "Waste Metal Chips" generated in the Metal Fabrication Area: The metal chips are currently disposed of as solid waste. Because it is possible for the metal chips to be considered a toxic hazardous waste when disposed, the final waste will need to be sampled and tested. Laboratory analysis should include, at a minimum, testing to detect the characteristic of toxicity (TCLP metals) using the method described in Env-Wm 403.06.

Alternatively, Nim-Cor may be able to manage the waste metal chips as a "scrap metal" being recycled and, as such, the waste metal chips would not be subject to regulation under the Hazardous Waste Rules, per Env-Wm 802.02(a)(3).

In a December 22, 2004 email, Alastair Millns, President, stated that the three containers of "VM & P Naptha" have been removed by Safety-Kleen as a hazardous waste. In a submittal dated January 6, 2005, laboratory analysis was provided to demonstrate that the "Waste Metal Chips" are non-hazardous and may continue to be disposed of as a solid waste. No further action required for items C. and D.

2. Env-Wm 507.01(a)(3) and Env-Wm 509.03(d) – Storage Requirements

At the time of the inspection, one (1) 55-gallon container of hazardous waste (the aerosol can puncturer) was not closed. See the attached Container Inventory ("Inventory").

Env-Wm 507.01(a)(3) requires generators to ensure that containers storing hazardous waste be closed at all times, except when waste is being added to or removed from the containers.

DES requested Nim-Cor to ensure that containers storing hazardous waste be closed at all times, except when adding or removing waste from the containers.

In a December 13, 2004 e-mail, Alastair Millns stated that the aerosol can puncturer has been closed. No further action is required.

3. Env-Wm 507.02(a) – Storage Time Requirements

At the time of the inspection, Nim-Cor personnel stated that the three (3) five gallon containers of unused VM & P Naptha in the Outdoor Shed had been stored for approximately seven years. Nim-Cor personnel also stated that this material is no longer used at the facility.

Env-Wm 507.02(a) requires that hazardous wastes are shipped off-site within 90 days of the date of when the accumulation first began.

DES requested that Nim-Cor ensure that all hazardous waste generated on-site are shipped off-site within a period of ninety (90) days or less, unless the hazardous waste is managed under the Satellite Storage Provision of Env-Wm 509.03.

In the December 22, 2004 email, Alastair Millns stated that the three containers of "VM & P Naptha" have been removed by Safety-Kleen as a hazardous waste. No further action is required.

4. Env-Wm 507.03(a)(1)a. – Beginning Accumulation Date

At the time of the inspection, the three (3) five gallon containers of unused VM & P Naptha in the Outdoor Shed, and one (1) 55-gallon container of Hazardous Waste Acetone and Toluene in the Outdoor Shed were not marked with the beginning accumulation dates. (See the attached Inventory).

Env-Wm 507.03(a)(1)a. requires that all containers used for the storage of hazardous waste be marked with the beginning accumulation date at the time that they are first used to store hazardous wastes.

DES requested that Nim-Cor properly mark all containers of hazardous waste with the beginning accumulation date at the time they are first used to store waste.

In the December 22, 2004 email, Alastair Millns stated that the three containers of "VM & P Naptha" and the one 55-gallon container of "Hazardous Waste Acetone" have been removed by Safety-Kleen as a hazardous waste. No further action is required.

5. Env-Wm 507.03(a)(1)b. and d. - Container Marking

At the time of the inspection, the three (3) five gallon containers of unused VM & P Naptha in the Outdoor Shed were not marked with the words "hazardous waste" and the EPA or state waste number. (See the attached Inventory).

Env-Wm 507.03(a)(1)b., c., and d. require that all containers used for the storage of hazardous waste be marked with the words "hazardous waste", words that identify the contents of the container; and the EPA or state waste number at the time they are first used to store hazardous wastes.

DES requested that Nim-Cor properly mark all containers of hazardous waste with the words "hazardous waste", words that identify the contents of the container; and the EPA or state waste number at the time they are first used to store waste.

In the December 22, 2004 email, Alastair Millns, stated that the three containers of "VM & P Naptha" have been removed by Safety-Kleen as a hazardous waste. No further action is required.

6. Env-Wm 509.02(a)(1) - Inspection Requirements

At the time of the inspection, Nim-Cor had not documented inspections of the facility's hazardous waste storage area.

Env-Wm 509.02(a)(1), which references 40 CFR 265.15, General Inspection Requirements, requires full quantity generators to conduct and document inspections of the facility, including the hazardous waste storage area(s). Per 40 CFR 265.15(d), the inspection records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions taken.

DES requested that Nim-Cor record in an inspection log, inspections of its hazardous waste storage area.

In the December 13, 2004 e-mail, Alastair Millns stated that weekly inspections have been undertaken and records set up in HR office. No further action is required.

7. Env-Wm 509.02(a)(2) – Personnel Training

A review of Nim-Cor's personnel training program revealed the following deficiencies:

- (a) The Emergency Coordinators/Hazardous Waste Coordinators identified below have not taken part in annual hazardous waste training reviews for years noted:
 - 1. Alastair Millns - 1999, 2000, 2001, 2002, 2003, 2004;
 - 2. Arthur Tuthill - 1999, 2000, 2001, 2002.
- (b) Hazardous Waste Handlers, including Ernie Whitney and Jim Meyers, had not taken part in annual hazardous waste training reviews in the years 1999, 2000, 2001, 2002, 2003, and 2004.
- (c) Nim-Cor's facility training records failed to document a training program which includes a list of hazardous waste job titles, job descriptions, descriptions of introductory and continuing training to be provided for each position, and names of employees filling each position.

Env-Wm 509.02(a)(2), which references 40 CFR 265.16, Personnel Training, requires full quantity generators to maintain a personnel training program. This includes, but is not limited to, ensuring that reviews are conducted for personnel handling hazardous waste. Env-Wm 509.02(a)(2) also requires full quantity generators to maintain at the facility, specific documents and records related to personnel training.

DES requested that Nim-Cor conduct and document hazardous waste training and annual updates for the Emergency Coordinators and employees responsible for hazardous waste management. DES also requested that Nim-Cor maintain, as part of the facility training program, documents of hazardous waste job titles, job descriptions, and names of employees filling each position and correct any deficiencies as identified in the enclosed

Full Quantity Generator Module. Lastly, DES requests that Nim-Cor submit a copy of this personnel training program to DES.

In a January 7, 2005 e-mail, Alastair Millns stated that Bob Bjornson, Nim-Cor's new Hazardous Waste Coordinator, has completed training for employees involved with hazardous waste. Note: Bob Bjornson attended the DES Hazardous Waste Coordinator Training on December 9, 2004. DES still requests a copy of the personnel training program documenting that it addresses the deficiencies cited in the enclosed FQG module.

8. Env-Wm 509.02(a)(3) – Requirements for Ignitable and Reactive Wastes

At the time of the inspection, Nim-Cor had not posted a "No Smoking" sign near ignitable wastes stored in the Outdoor Shed.

Env-Wm 509.02(a)(3), which references 40 CFR 265.17, requires that generators post a "No Smoking" wherever there is a hazard from ignitable or reactive waste.

DES requests that Nim-Cor post a "No Smoking" sign near ignitable wastes stored in the Outdoor Shed.

9. Env-Wm 509.02(a)(4) – Preparedness and Prevention

At the time of the inspection, the Outdoor Shed failed to have an internal/external communication system capable of providing immediate contact with facility personnel and local authorities (e.g., fire department).

Env-Wm 509.02(a)(4), which references 40 CFR 265 Subpart C, Preparedness and Prevention, requires generators to have an internal communication system capable of providing immediate contact with facility personnel, and a device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams. All required hazardous waste storage area equipment must be installed or available within 100 feet of the storage area.

DES requested that Nim-Cor maintain at the Outdoor Shed a communication system capable of providing immediate communication with facility personnel and local authorities.

In the January 7, 2005, Alastair Millns stated that an alarm system has been installed and the Receiving Department door is open when Acetone Shed (Outdoor Shed) is open for telephone access since phone in location conflicts with OSHA ruling. No further action is required.

10. Env-Wm 509.02(a)(5) – Contingency Plan

At the time of the inspection, Nim-Cor's contingency plan was confirmed to be incomplete. Specific deficiencies are listed in the attached Contingency Plan Module.

Env-Wm 509.02(a)(5), which references 40 CFR 265, Subpart D, requires full quantity generators to maintain a complete contingency plan at the site.

DES requests that Nim-Cor revise and update its contingency plan to correct any deficiencies as identified in the enclosed Contingency Plan Module and submit a copy of the updated Contingency Plan to DES. In addition, please provide documentation that Nim-Cor has made arrangements with the local authorities and has submitted a copy of the Contingency Plan to them.

11. Env-Wm 509.02(b)– Emergency Posting

At the time of the inspection, Nim-Cor did not have a complete emergency posting at the nearest telephone to the Outdoor Shed hazardous waste storage area.

Env-Wm 509.02(b) requires that full quantity generators shall post a list of the steps to take if an emergency occurs and the following emergency numbers at the nearest telephone to the hazardous waste storage area:

- (a) The emergency coordinators (home and office);
- (b) The fire department, police department, and State of New Hampshire and local emergency response teams that may be called upon to provide emergency services, unless the facility has a 24-hour response team designated to provide emergency services whose number is posted; and
- (c) The location of fire extinguishers and spill control material, and if present, fire and internal emergency alarms.

DES requested that Nim-Cor post the required information at the nearest telephone to the hazardous waste storage area. Enclosed is a sample emergency posting for your reference.

In the January 7, 2005, Alastair Millns stated that directions were posted. No further action is required.

12. Env-Wm 509.03(g) – Satellite Storage Container Marking

At the time of the inspection, the one (1) 55-gallon container with the aerosol can puncturer, managed as a satellite storage area, was not marked with the words “hazardous waste” and words that identify the contents of the container.

Env-Wm 509.03(g) requires all satellite storage containers used for the storage of hazardous waste be marked with the following information at the time they are first used to store wastes: the words “hazardous waste” and words that identify the contents of the container.

DES requests that Nim-Cor properly mark all hazardous waste satellite storage containers at the time they are first used to store waste with: the words “hazardous waste” and words that identify the contents of the container.

13. Env-Wm 509.03(h) – Satellite Storage Area Inspections

At the time of the inspection, Nim-Cor had not documented inspections of the aerosol can puncturer satellite storage container.

Env-Wm 509.03(h), requires that satellite storage areas that have accumulated greater than 10 gallons of hazardous waste, the container(s) must be inspected at least monthly for leaks and for deterioration caused by corrosion or other factors.

DES requests that Nim-Cor conduct and document inspections at the storage areas that have accumulated greater than 10 gallons of hazardous waste.

14. Env-Wm 807.06(b)(4) - Standards for Generators of Used Oil Being Recycled

At the time of the inspection, the one (1) 1000-gallon tank of used coolant, managed as used oil for recycle, in the Bay # 1 Area was not labeled with the words “Used Oil for Recycle.”

Env-Wm 807.06(b)(4) requires that generators of used oil destined for recycling label their containers and tanks with the words “Used Oil for Recycle” at all times during accumulation and storage.

DES requests that Nim-Cor label all containers and tanks of used oil destined for recycling with the words “Used Oil for Recycle” at all times during accumulation and storage.

In addition, Env-Wm 1402, “Control of Aboveground Petroleum Storage Facilities” (available at <http://www.des.state.nh.us/orcb/doclist/1402.pdf>), requires above ground oil

storage facilities to register the tank system with DES if they have combined oil storage capacity of more than 1,320 gallons. At the time of the inspection, Nim-Cor had an oil storage capacity in the on-site tank in excess of this threshold. Therefore, this matter has been referred to the Above Ground Storage Tank (AST) Section of DES's Waste Management Division. DES expects Nim-Cor to pursue the issue of tank registration, by contacting Michael Juranty of the AST Section at 271-6058, within thirty (30) days of receipt of this letter. Enclosed please find the DES Environmental Fact Sheet WMD-REM-5 "Registration of Aboveground Petroleum Storage Tanks (ASTs)", as well as the Environmental Protection Agency Fact Sheet "The New SPCC Rule" for your reference.

15. Env-Wm 1102.03 and Env-Wm 1112.04 - Universal Waste Container Requirements

At the time of inspection, the nine (9) universal waste lamps and containers of universal waste lamps were not marked with the words "Universal Waste – Lamps", "Waste Lamp(s)", or "Used Lamp(s)" (see the attached Inventory).

Env-Wm 1112.04 requires universal waste handlers of lamps to ensure each universal waste lamp or container(s) holding universal waste lamps to be clearly labeled or marked with any of the following: "Universal Waste – Lamps"; "Waste Lamp(s)"; or "Used Lamp(s)".

DES requests Nim-Cor to clearly label or mark universal waste lamps and container(s) holding universal waste lamps with any of the following: "Universal Waste – Lamps"; "Waste Lamp(s)"; or "Used Lamp(s)".

16. Env-Wm 1102.03(c) and Env-Wm 1112.03(a) - Universal Waste Container Requirements

At the time of inspection, seven (7) universal waste lamps were not stored in containers.

Env-Wm 1112.03(a) requires universal waste handlers to store intact and broken universal waste lamps in container(s) that meet the requirements of Env-Wm 1102.03(c). Env-Wm 1102.03(c) furthermore stipulates that the containers must be closed, compatible with the universal waste and its contents, and free of defects, design characteristics or damage.

DES requests Nim-Cor ensure all universal waste lamps generated at the facility are placed and stored in containers that meet the requirements of Env-Wm 1102.03(c).

17. Env-Wm 1102.03(c)(1) – Universal Waste Management

At the time of the inspection, two (2) containers of universal waste lamps were not closed.

Env-Wm 1102.03(c)(1) requires universal waste containers to be closed, except when universal waste is being added to or removed from the container.

DES requests that Nim-Cor ensure that containers of universal waste lamps are closed, except when universal waste is being added to or removed from the container.

DES believes the remaining portion of the cited deficiencies can be corrected and a report describing the corrective measures taken by Nim-Cor can be submitted within thirty (30) days of receipt of this letter. Supporting documentation that describes the measures taken to achieve compliance should be included with the report.

In the event compliance is not achieved within this period, DES may take further action against Nim-Cor including issuing an order requiring that deficiencies be corrected, initiating administrative fine proceeding, and/or referring the matter to the New Hampshire Department of Justice for imposition of civil penalties. In addition, DES personnel may reinspect your facility at a later date to determine whether the facility has come into, and is maintaining, full compliance with the applicable rules. Fines may be pursued for any or all violations observed during this or subsequent inspections of the facility.

The written report as requested above should be addressed as follows:

Tod Leedberg, RCRA Compliance Supervisor
DES/WMD
P.O. Box 95
Concord, New Hampshire 03302-0095

Enclosed you will find a copy of the completed Hazardous Waste Generator RCRA Inspection Checklist which documents the compliance status of your facility at the time of the inspection. This checklist may also be of value to you for use in determining future compliance with the New Hampshire Hazardous Waste Rules.

The State of New Hampshire Hazardous Waste Rules, as well as much other useful information, can be obtained from DES's website at <http://www.des.state.nh.us/hwcs/>, or by contacting the Public Information Center at (603) 271-2975.

It is the goal of DES to promote the prevention of pollution at the source as the preferred option for meeting established environmental quality goals. We strive to ensure that pollution prevention options are considered first, followed by recycling, treatment and disposal. I am requesting that the DES's Pollution Prevention Coordinator, Stephanie D'Agostino, contact you to discuss possibilities for waste minimization or source reduction at your facility. In the meantime, if you have immediate questions about pollution prevention, please feel free to contact her at 271-6398.

As a service to New Hampshire's hazardous waste generators, we maintain a Hazardous Waste Assistance Hotline which is available for you to contact our knowledgeable staff of hazardous waste inspectors. Our hazardous waste staff is available to answer your questions concerning the New Hampshire Hazardous Waste Rules and the compliance issues which affect your hazardous waste management program. The technical assistance available through the Hotline includes fact sheets that pertain to the management and recycling of specific wastes, summary sheets of specific sections of the Hazardous Waste Rules, copies of EPA and New Hampshire hazardous waste policy or regulatory interpretation letters that may benefit your operation, and networks with other state or federal agencies to answer your questions on a national level. The Hotline is available Monday through Friday, 8:00 AM to 4:00 PM at (1-866) HAZ-WAST (in-state only) or (603) 271-2942.

Should you have any questions regarding this letter, please contact the lead inspector Tod Leedberg, RCRA Compliance Supervisor, at 271-2942. Thank you for your cooperation.

Sincerely,

~~COPY~~

John J. Duclos, Administrator
Hazardous Waste Compliance Bureau
Waste Management Division

cc: DB/RCRA/LOD/Archives
Anthony P. Giunta, P.G., Director, WMD
Paul L. Heirtzler, P.E., Esq., Administrator, Waste Management Programs, WMD
Gretchen Rule, Administrator, DES Legal Unit

E-mail: JJD

Enclosure: Hazardous Waste Generator Inspection Report